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FARDIS & BOUDOURIS v. E. I. DU PONT DE NEMOURS & CO.

June 13, 1918.

[96 S. E. 164.]

1. **Trial (§ 59 (2)*)—Evidence—Order of Proof.**—The order of proof not being material, the court in its discretion might permit evidence to be introduced on condition that defendant should thereafter be connected with it, and, when that condition failed, it might exclude the evidence.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 597.]

2. **Trial (§ 89*)—Striking out Evidence.**—In an action for the destruction of plaintiff's building by explosives in an effort to check a fire, where there was nothing to show that the acts and conduct of defendant company's policemen were impliedly or expressly authorized by defendant, the striking out of evidence with reference to the destruction of the building was not error.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 347.]

3. **Appeal and Error (§ 692 (1)*)—Assignments of Error—Sufficiency.**—An assignment of error to the refusal to permit a witness to answer the question is fatally defective, where the record failed to disclose what answer the witness would have made, or his knowledge on the subject.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 377, 378.]

Error to Corporation Court of Hopewell.

Action by Fardis & Boudouris against E. I. Du Pont de Nemours & Co. Verdict and judgment for defendant, and plaintiff brings error. Affirmed.

Henley, Hall, Hall & Peachy, of Williamsburg, for plaintiff in error.

Plummer & Bohannon, of Petersburg, for defendant in error.

HARRISON v. COMMONWEALTH.

June 13, 1918.

[96 S. E. 165.]

1. **Taxation (§ 844*)—Interest and Penalties—Remission.**—On a motion by an executor for relief against interest and penalties on omitted taxes assessed against the estate of his decedent, evidence held not to show that the executor made proper effort to comply with Code 1904, § 508, as amended by Act March 22, 1916 (Acts 1916, c. 491), providing that, when omitted intangible personal prop-

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.